

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

July 1, 2004

A meeting of the Board of Environmental Protection was held on Thursday, July 1, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Ernest Hilton, Donald Guimond, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler, and Matt Scott

Absent: Nancy Anderson

<u>Staff:</u>	Bureau of Remediation and Waste Management	Stacy Ladner
	Bureau of Land and Water Quality	Judy Gates
	Bureau of Land and Water Quality	Jeff Dennis
	Bureau of Land and Water Quality	Kristen Haley

Others: David P. Littell, Deputy Commissioner
Jan McClintock, Assistant Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 5:00 p.m.)

I. DEPARTMENTAL**A. COMMISSIONER'S COMMENTS:** Deputy Commissioner David Littell reported the following:

Clean Air Act: NESCAUM's report documenting a review of the Federal New Source Review Standards was provided to Board members. The report demonstrates through scientific calculations that the proposed standards essentially rollback protection of the Clean Air Act, which threatens Maine's compliance with ozone standards due to higher levels of transport pollution.

Additionally, Maine finds that the associated mercury rules are not sufficient. Governor Baldacci and Commissioner Gallagher are considering providing comments to EPA's administrator regarding concerns that the new rules are not sufficient to ensure continued mercury reductions and the 20-year phase in of the rule is too long.

Environmental Bonds: Governor Baldacci proposed a revised bond package to the Legislature last week. The package totals \$55 million; of which 13.1 million is proposed for environmental programs. The majority of the environmental funds allocated would support wastewater treatment (loans / grants) and clean up of hazardous waste sites. The Deputy Commissioner provided an informational sheet "DEP Information Sheet / 2004 Environmental Bond" to Board members.

Question: Board member Jean Wilkinson asked if the environmental package included restoring funds previously used to support the Lincoln and Brewer facilities.

The Department confirmed that the proposed package would provide \$1.5 million to restore funding for cleanup activities and establish a contingency fund for future environmental threats posing severe/imminent threats to public health.

DEP Accomplishments: The Deputy Commissioner provided Board members with a list of Department accomplishments (January 2003 – June 2004).

B. CHAIRMAN'S COMMENTS: NONE**C. EXECUTIVE ANALYST COMMENTS:**

West Old Town Landfill: The Presiding Officer received a request to dismiss the appeals; and a request to disqualify attorneys from the Office of the Attorney General from representing the State Planning Office in this matter. Ms. Plummer issued a ruling on Monday. She did not dismiss the appeals or disqualify the attorneys. Any appeal from her ruling will be heard by the full Board on July 15, 2004.

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

The consent agenda items 1, 2, 3 and 4 were approved as follows:

1. BEP Minutes, March 4, 2004
The Board voted (5-0-3-1) to approve.
Board members Ernest Hilton, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, and Matt Scott voted to support the motion. Board members Irving Faunce, Nancy Ziegler and Donald Guimond abstained. Board member Nancy Anderson was absent.
2. BEP Minutes, March 18, 2004
The Board voted (6-0-2-1) to approve.
Board members Ernest Hilton, Irving Faunce, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board members Donald Guimond and Virginia Plummer abstained. Board member Nancy Anderson was absent.
3. BEP Minutes, April 1, 2004 (approval)
The Board voted (7-0-1-1) to approve.
Board members Ernest Hilton, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Donald Guimond abstained. Board member Nancy Anderson was absent.
4. BEP Minutes, April 15, 2004 (approval)
The Board voted (7-0-1-1) to approve as presented
Board members Ernest Hilton, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Donald Guimond abstained. Board member Nancy Anderson was absent.
5. SHEPARD BROTHERS and SHEPARD SALES INC., and SHEPARD CHEVROLET, INC., Thomaston - Administrative Consent Agreement and Enforcement Order (BLWQ - Land) – **Withdrawn from consideration**

III. Regular Agenda

1. **CHAPTER 850, IDENTIFICATION OF HAZARDOUS WASTES / AMENDMENT (adoption*)**
Staff: Stacy Ladner, Bureau of Remediation and Waste Management

The Board voted (8-0-0-1) on a motion to adopt amendments to Chapter 850, Identification of Hazardous Wastes as presented. The vote was taken pursuant to 38 M.R.S.A. Section 1319-0, Subsection 1, and Section 341-D.

Board members Ernest Hilton, Donald Guimond, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Nancy Anderson was absent.

2. CHAPTER 500, STORMWATER MANAGEMENT and CHAPTER 502, DIRECT WATERSHEDS OF LAKES MOST AT RISK FROM NEW DEVELOPMENT, AND URBAN IMPAIRED STREAMS (post to public hearing)

Staff: Judy Gates / Don Witherill, Bureau of Land and Water Quality

The Board voted (8-0-0-1) on a motion to post to public hearing on August 19, 2004 at 1:30 p.m. the repeal and replacement of Chapter 500, Stormwater Management and Chapter 502, Direct Watersheds of Lakes Most at Risk from New Development and Urban Impaired Streams. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D, 420-D, and 481 – 490.

Board members Ernest Hilton, Donald Guimond, Irving Faunce, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Nancy Anderson was absent.

3. DANIEL H. STAPLES (appeal of Natural Resources Protection Act Permit)

Staff: Kristen Haley, Bureau of Land and Water Quality

The Board voted (4-4-0-1) on a motion to grant the appeal submitted by E. Vaughn and Carol Deal and deny an after-the-fact permit approval issued to Daniel H. Staples for the construction of commercial wharf and bait shed in Cushing. The motion failed.

In accordance with 06-096 CMR Chapter 2 Section 24B(7) Decisions. “An evenly divided vote of the Board has the effect of affirming the Commissioner’s decision...” Therefore, Department’s Order L-21647-4E-B-N denying the appeal and granting after-the-fact permit approval to construct a commercial wharf and bait shed was affirmed. The Chair signed the draft Board order recommended by staff as it reflects the findings and reasoning of the Board members voting in favor of the Commissioner’s decision.

Board members Ernest Hilton, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board members Donald Guimond, Irving Faunce, Virginia Plummer and Richard Wardwell voted opposed. Board member Nancy Anderson was absent.

BOARD RECONVENED TO CONDUCT PUBLIC HEARINGS AS FOLLOWS:

11:00 a.m. Chapter 596, Overboard Discharges – Licensing and Abandonment /

Amendments

1:00 p.m. Chapter 594, State Contribution to Overboard Discharge Replacement Projects /

Amendments